

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

MATTHEW GIBSON,

Plaintiff,

v.

**CIVIL ACTION NO.: 5:21-cv-00181
HONORABLE FRANK W. VOLK**

**LOUISE E. GOLDSTON, individually,
COUNTY COMMISSION OF RALEIGH
COUNTY, a political subdivision,
JEFF MCPEAKE, individually,
BRIAN WHITE, individually,
BOBBY STUMP, individually,
KYLE LUSK, individually,**

Defendants.

**DEFENDANTS COUNTY COMMISSION OF RALEIGH COUNTY, JEFF MCPEAKE,
BRIAN WHITE, AND BOBBY STUMP'S
MOTION TO DISMISS THE PLAINTIFF'S COMPLAINT**

NOW COME the Defendants, County Commission of Raleigh County, Jeff McPeake, Brian White, and Bobby Stump, by and through counsel, J. Victor Flanagan, Kevin J. Robinson and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, and respectfully move this Court to dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of their Motion, Defendants state as follows:

- I. Defendants Jeff McPeake, Brian White, and Bobby Stump are entitled to qualified immunity on all counts in the Plaintiff's Complaint.**
- II. Plaintiff's Complaint for Violation of the First Amendment against Defendants McPeake, Stump, and White does not meet the pleading standards of *Twombly* and *Iqbal*.**
- III. Defendant Raleigh County Commission has qualified immunity for any 42**

U.S.C. §1983 claims against it as the Plaintiff has failed to meet the pleading standards of *Twombly* and *Iqbal*.

- IV. Plaintiff's Complaint does not meet the pleading standard of Rule 8 of the Federal Rules of Civil Procedure as delineated in *Twombly* and *Iqbal* and fails to assert any factual content that would result in reasonable inference that the Defendants are liable for a violation of the 14th Amendment as alleged in Counts IV and V of the Complaint.

Please see Plaintiff's Complaint attached hereto as Exhibit A.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing, these Defendants request that this Honorable Court grant their Motion to Dismiss with prejudice and grant Defendants any other and further relief which the Court deems appropriate.

COUNTY COMMISSION OF RALEIGH
COUNTY, JEFF McPEAKE, BRIAN
WHITE, AND BOBBY STUMP,
By Counsel,

/s/ Kevin J. Robinson

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Defendants.

CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendants, does hereby certify on this 19th day of April, 2021, that a true copy of the foregoing "**DEFENDANTS COUNTY COMMISSION OF RALEIGH COUNTY, JEFF MCPEAKE, BRIAN WHITE, AND BOBBY STUMP'S MOTION TO DISMISS THE PLAINTIFF'S COMPLAINT**" was served upon opposing counsel through the Court's CM/ECF filing system as follows:

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